

REMARKS:

Claims 16-25 are pending. There are no amendments to the claims at this time. Applicant respectfully requests consideration of the following remarks.

Double Patenting

Claims 16-25 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent No. 6,735,480.

A Statement Under 37 CFR 3.73(b) and a Terminal Disclaimer are filed concurrently with this paper to obviate the double patenting rejection.

35 U.S.C. §103 Rejections

Claims 16-25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gruzdownich (U.S. Patent No. 6,178,352) in view of Rasmussen (U.S. Patent No. 4,524,775).

Claim 16 recites, among other things:

a gasket having a first aperture and a second aperture being sized and dimensioned to receive the electrodes, said gasket disposed about the electrodes on the bottom outer surface of the housing; and

wherein the electrodes extend a given depth outwardly from the bottom outer surface of the housing, and the gasket is a compressible electrically insulating gasket having a thickness in an uncompressed state which is greater than the given depth of the electrodes and a thickness in a compressed state which does not impede direct contact between the electrodes and the patient.

The Examiner concedes that Gruzdownich fails to disclose a gasket to receive the electrodes (see Office action, ¶ 4). The Examiner therefore relies upon the teachings or Rasmussen to allegedly cure the conceded deficiencies of Gruzdownich.

Rasmussen teaches a medical electrode of the type used for measuring or detecting electrical signals produced in the skin as a result of physiological processes, such as the heart function. The device of Rasmussen includes a circular foam disc 10 to which a layer of pressure-sensitive glue 16 is applied to retain the electrode on the skin (Rasmussen, col. 3, lines 25-28). In one embodiment (Figs. 1 and 2), the disc 10 includes a central aperture forming a chamber 11 for receiving a *contact medium*, which is generally a paste-like electrolyte (Rasmussen, col. 3,

lines 10-13). In another embodiment (Figs. 3-5), a foam plastic disc 20 includes an aperture 21 configured such that the necessary electrical contact between the electrode strip 26 and the skin can be established by means of a *sponge 27*, in which a *contact medium* has been absorbed and which is adhered to the foam plastics around the aperture 21 by means of the glue film 28 on the underside of the electrode (Rasmussen, col. 4, lines 1-8). Thus, in both embodiments taught by Rasmussen, a contact medium is held in place between the electrode and the skin of the patient to provide the necessary electrical contact for measuring or detecting electrical signals produced in the skin.

Rasmussen does not teach a gasket having a thickness in an uncompressed state which is greater than the depth of the electrodes, and a thickness in a compressed state which does not impede *direct contact* between the electrodes and the patient as claimed in claim 16. The discs of Rasmussen are not configured to provide direct contact between the electrodes and the skin of the patient at all. The discs are specifically designed for use with a contact medium, or in the case of the embodiment of Figs. 3-5, a sponge 27 soaked with a contact medium. The specifically stated advantage of the manufacturing process taught by Rasmussen is that it prevents diffusion of the constituent components of the contact medium (contact paste) placed in the chamber 11 (Rasmussen, col. 3, lines 40-45). If the contact medium were allowed to diffuse from the chamber 11, or were not present in the chamber to begin with, Rasmussen's medical electrode would apparently not work at all, or its operation would significantly be impaired. Indeed, in the Background portion of the specification, Rasmussen states that "[i]t is also important that the paste-like contact medium, which is generally used for establishing good electrical connection between the metal electrode and the skin, can be kept intact during the entire period of operation." (Col. 1, lines 29-33).

Furthermore, the discs 10, 20 of Rasmussen are not configured to be compressed when they are applied to a patient as recited in claim 16, but are instead held in place by pressure-sensitive glue applied to the underside of the disc 10, 20. If anything, the resilient nature of the discs 10, 20 of Rasmussen operate to bias the electrode *away* from the skin of the patient.

For these and other reasons, the combination of Gruzdownich and Rasmussen does not teach or suggest the subject matter of claim 16. Claim 16 is therefore allowable.

Claims 19 and 22 recite, among other things:

a gasket having a first aperture and a second aperture, said first and second apertures being sized and dimensioned to receive the electrodes,

said gasket disposed about the electrodes on the bottom outer surface of the housing; and

wherein the electrodes extend a given depth outwardly from the bottom outer surface of the housing, and the gasket is a compressible electrically insulating gasket having a thickness in an uncompressed state which is greater than the given depth of the electrodes and a thickness in a compressed state which does not impede direct contact between the electrodes and the patient.

The arguments presented above with respect to claim 16 apply equally to claims 19 and 22. Specifically, Rasmussen does not teach a gasket having a thickness in an uncompressed state which is greater than the given depth of the electrodes, and a thickness in a compressed state which does not impede *direct contact* between the electrodes and the patient. Also, the discs 10, 20 of Rasmussen are not configured to be compressed when they are applied to a patient as recited in claims 19 and 22, but are instead held in place by pressure-sensitive glue applied to the underside of the disc 10, 20. If anything, the resilient nature of the discs 10, 20 of Rasmussen operate to bias the electrode *away* from the skin of the patient.

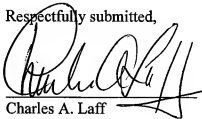
For these and other reasons, claims 19 and 22 are also allowable.

Dependent claims 17, 18, 20, 21, and 23-25 each depend from one of claims 16, 19, and 22, and are therefore allowable for at least the same reasons discussed above with respect to claims 16, 19, and 22.

CONCLUSION:

In view of the foregoing, allowance of claims 16-25 is respectfully requested. The undersigned is available for telephone consultation during normal business hours.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Charles A. Laff', written over a horizontal line.

Charles A. Laff
Reg. No. 19,787

Docket No. 022295-9008
Michael Best & Friedrich LLP
Two Prudential Plaza
180 North Stetson Avenue, Suite 2000
Chicago, Illinois 60601
(312) 222-0800